

VZCZCXRO4172
RR RUEHLH RUEHPW
DE RUEHIL #0930/01 1210851
ZNR UUUUU ZZH
R 010851Z MAY 09
FM AMEMBASSY ISLAMABAD
TO RUEHC/SECSTATE WASHDC 2533
INFO RUCPDO/DEPT OF COMMERCE WASHINGTON DC
RHMFIUU/DEPT OF HOMELAND SECURITY WASHINGTON DC
RUMICEA/USCENTCOM INTEL CEN MACDILL AFB FL
RHMFISS/CDR USCENTCOM MACDILL AFB FL
RUEAIIA/CIA WASHDC
RHEFDIA/DIA WASHINGTON DC
RHEHNSC/NSC WASHDC
RUEKJCS/SECDEF WASHINGTON DC
RUEHBUL/AMEMBASSY KABUL 0202
RUEHNE/AMEMBASSY NEW DELHI 4821
RUEHKP/AMCONSUL KARACHI 1551
RUEHLH/AMCONSUL LAHORE 7155
RUEHPW/AMCONSUL PESHAWAR 6090

UNCLAS SECTION 01 OF 03 ISLAMABAD 000930

SENSITIVE
SIPDIS

E.O. 12958: N/A

TAGS: [ECON](#) [EAID](#) [EINV](#) [ETRD](#) [PK](#)

SUBJECT: ACTION ON PAK-AFGHAN TRANSIT TRADE NEGOTIATIONS

¶1. (SBU) Summary: The Pakistani Cabinet approved the opening of formal negotiations on a new Afghanistan Transit Trade Agreement (ATT) April 8, a significant step toward replacing the outdated 1965 agreement currently in place. While this is a welcome step forward, challenges ranging from vested interests, inadequate infrastructure and tense relations with neighboring India mean that concluding a new agreement will not be easy, despite welcome leadership by the Ministry of Commerce. Pakistan prefers to conclude an agreement with Afghanistan without addressing issues with India. Engaging both the military and the civilian leadership in Pakistan will be essential to making a new transit trade agreement a reality. End Summary.

Background

¶2. (SBU) The flow of goods between Afghanistan and Pakistan (and by extension to/from regional and global markets) is hindered by an outdated 1965 transit trade agreement. Limitations of the current agreement fuel corruption on both sides of the border, and the issue has been a significant source of irritation between the two governments.

¶3. (SBU) Afghanistan is eager to adopt a new bilateral agreement and presented Pakistan with an updated text to re-open negotiations in November 2008. While Pakistan has traditionally been unwilling to change the status quo, the new offer of reciprocal transit rights across Afghanistan to reach Central Asia spurred the Pakistani Cabinet on April 8 to approve the launch of formal negotiations with Afghanistan. They plan to announce this at the upcoming Regional Economic Cooperation Conference on Afghanistan (RECCA) in Islamabad (May 13-14).

¶4. (U) Both the Asian Development Bank and the World Bank have studied transit trade issues; the World Bank has been instrumental in assisting both parties in the current negotiating process. Canada has sponsored a dialogue (the Dubai Process) which includes an effort to coordinate and improve operations at the border. That process has set a target for concluding the new Agreement by March 2010. After discussing this issue at Joint Economic Commission (JEC) meetings in November 2008, the GOP has been consulting internally on the Afghan draft, with the help of a World Bank facilitator. The April 8 Cabinet decision has moved the ball a step further and we expect the GOP to hand over their comments on the Afghan draft soon. Both sides report that they have identified their negotiating committees but bilateral follow-through on this issue has, as yet, no clear road map.

The Current State of Play

15. (U) Goods face significant delays moving in both directions, increasing the cost of doing business. However no study has been carried out to determine these costs. Afghanistan is one of few countries with which Pakistan has a positive trade balance. Exports were \$ 1.143 billion and imports \$ 0.091 billion in fiscal year 2008. For the first half of the current fiscal year (July -December 2008), Pakistan's exports (\$ 772 million) increased by 56 percent over the same period last year. Major exports include cereals, petroleum and petroleum products, edible oils, construction material and plastic products. Currently, all Afghan-bound goods arrive at the Port of Karachi. Per the 1965 treaty, the Afghans are unable to competitively bid for commercial transport and are required to use the National Logistics Cell (NLC) trucking company, an arm of the Pakistani military.

16. (U) Due to the large flow of goods moving into Afghanistan post-2001, goods often sit for long periods in extreme temperatures at the port. Once placed on a truck, the goods move slowly through a system of unofficial check points throughout Pakistan. Goods move slowly because the roads and trucks are less than perfect. There are further significant delays as a result of inadequate infrastructure (narrow roads, no pull-asides) at the Torkham border crossing for customs processing. Most trucks do not cross the borders, so commercial goods are off-loaded by hand and placed on Afghan trucks for the onward journey to Kabul or beyond.

17. (SBU) The roads between Peshawar-Torkham and Karachi-Chaman need

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repairs to continue to handle heavy trucks. Repairs to the routes would speed the progress of traffic (now there are many chokepoints caused by road disrepair, leaving slow-moving traffic vulnerable to attack) and improving alternative routes (bypasses around Peshawar and Quetta) would take traffic out of the cities and provide an option if one route was blocked by an attack. Specific improvements at the border crossings would also help: generators, lighting, temporary housing for border/customs officials, computer upgrades, and separate secure parking areas for trucks that need have paperwork or security screening. Plans and funding exist to address these needs on the Afghan side of both crossings. However, to have the needed impact, matching improvements on the Pakistani side of the border are also necessary. There are currently no USG plans or funding for this purpose, and we do not believe any other donor has such plans. Although Pakistani customs officials have indicated their willingness to keep the border open longer hours, seven days a week, they cite security and poor infrastructure as impediments.

Impact on U.S. Military and ISAF

18. (SBU) Generally speaking, U.S. military and ISAF bound cargo is able to cross the Pak-Afghan border smoothly. At present 90 percent of all re-supply goods arrive at the Port of Karachi and are then trucked across the Torkham and Chaman border crossings. Goods are pre-cleared prior to arrival in Karachi; the computerized pre-clearance system between Karachi and the two main border crossings generally works quite well. Problems arise when other commercial traffic gets hung-up; the two-lane roads leading up to the border crossings, and the choke points at the crossings themselves mean that if even one or two commercial trucks don't have their papers in order, any traffic behind them (cleared or not) also gets delayed. A transit trade agreement that put in place processes to move all traffic more smoothly would help.

19. (SBU) The U.S. military has developed a system in which they commercially contract trucks that can cross the Pak-Afghan border to ease the flow. All of these factors combined have forced the U.S. military to budget months for travel that should take days. Rail transport northward in Pakistan is equally problematic, with antiquated or nonexistent rail lines being the primary culprit.

Challenges to a New Agreement

¶10. (SBU) Securing adoption of agreement, once negotiated, will be difficult because of a number of deeply embedded Pakistani concerns--smuggling is the issue on which the GOP is most vocal. With Afghan tariffs among the lowest in the region at five percent, Pakistan faces an influx of goods bound for Afghanistan that are then smuggled back across the border into Pakistan. Electronics, food, cigarettes, tires, and construction supplies are among the items which then cause distortion in Pakistan's markets, disrupting both trade and production cycles. A major Pakistani complaint is that Afghanistan imports items for which there is little or no local demand, and in excessive quantities (the National Logistics Committee claims 10 to 20 times in excess of domestic demand; the current agreement allows for imports totaling only twice domestic demand). The GOP asserts that "most" of these goods find their way back into Pakistan, since customs checks are not always conducted immediately at the border.

¶11. (SBU) Furthermore, Pakistan has little appetite for allowing India to transit goods to Afghanistan via its territory, particularly as India does not allow reciprocity for Pakistan goods to transit its territory. Ministry of Commerce officials have expressed concern that a lack of bypass roads around the border at Lahore will cause traffic bottlenecks. A lack of reciprocity from India to open to trade routes for Pakistani trade to Bangladesh and other markets is another area of concern. Pakistani officials have indicated that it would be easier to secure a new transit trade agreement with Afghanistan separately from improved trade with India.

¶12. (SBU) Finally, Pakistani military, NLC and ISI interests control the trucking industry for Afghan-bound and Afghan-origin goods, and benefit financially from their current monopoly. These groups also remain suspicious of any improvements to existing bilateral trade arrangements; particularly as they do not see the benefit to

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Pakistan.

Process

¶13. (U) Once the negotiating teams reach agreement, the draft text has two possible routes for approval: via legislation or via Presidential Ordinance. To become law, the text must be vetted by the Law Ministry before moving to the Cabinet for approval. Once the Cabinet has approved, the draft agreement must go to the Standing Committee of the National Assembly for its clearance. The agreement will then go to Parliament, the National Assembly, and then to Senate to become a law.

¶14. (U) An ordinance is the action of the executive. Ordinances are valid for four months, but in practice are routinely renewed once put on the books. Although it is faster and more certain, adopting laws by ordinance rather than the legislative process is coming under increasing criticism.

¶15. (SBU) Comment: We need to convince Pakistan that the current situation is not in its national interest; in this sense the April 8 cabinet decision to re-open negotiations is a long overdue and welcome step. The Pakistan Ministry of Commerce has played a positive role in bringing Pakistani stakeholders on board, but it is clear that we must also raise this through military channels. In the meantime, the status quo hinders economic growth in both countries and Pakistan is losing needed income as countries like India turn to Iran for its Afghan transshipment needs. In addition, future economic growth depends on improved trade flows which must be regularized to avoid compounding the rapidly deteriorating security and economic situation along the Afghanistan-Pakistan border. By maximizing trade efficiencies between the two sides, a new agreement will also assist ISAF efforts as we increase our presence in Afghanistan.

¶16. (SBU) Comment Cont'd: For its part, the GOP will seek acknowledgement that Pakistan is bearing significant costs by facilitating trade to Afghanistan. While there is a case to be

made, we must be cautious if they try and conflate enforcement of the agreement's provisions with the agreement itself. End Comment.

PATTERSON